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RIGHTS OF PEOPLES TO SELF-DETERMINATION: EFFECTIVE REALIZATION OF THE RIGHT OF SELF-DETERMINATION THROUGH AUTONOMY

Letter dated 30 November 1993 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Secretary-General

Upon instructions of my Government, I have the honour to forward the following comments concerning agenda item 108 (b) entitled "Effective realization of the right of self-determination through autonomy".

The principle of the right of peoples to self-determination, internationally recognized by the Charter of the United Nations, has been further developed by subsequent United Nations documents, namely by the Declaration on the Granting of Independence to Colonial Countries and Peoples, 1/ the International Covenants on Human Rights 2/ and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 3/ which enabled the right to self-determination to become a universal principle of the international community. This principle gained full recognition, especially in the decolonization period, because as a result of its application a number of newly independent States emerged, which contributed to greater emancipation and democratization in international relations.

However, in the past few years, the action taken in the name of the right of peoples to self-determination, especially in Europe, has been in contravention of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations which, inter alia, prohibits "authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples ...". This Declaration also provides that "every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country".

The breakup of the former Socialist Federal Republic of Yugoslavia is an example where the right to self-determination has been reduced to the "right of violation of territorial integrity". In practice, it has been recognized as a right to secession which directly testifies to the wrong approach by a part of the international community concerning the right of peoples to self-determination.

Self-determination in the form of secession was essentially carried out through force by some former Yugoslav federal units.

The international community, acting under the pretext of the protection of the right of peoples to self-determination, prematurely recognized the secessionist republics. At the same time, it denied the Serbian people its equal right to self-determination, thereby violating both the principles of international law and of the Charter of the United Nations as well as the provisions of the last Constitution of the Socialist Federal Republic of Yugoslavia.

The right to self-determination in this case has been granted to the federal units, republics of the former Yugoslavia and not to all its peoples. Priority has been given to internal borders, which have not been internationally recognized, over the international ones.

The right of peoples to self-determination has to be exercised in full conformity with the Charter of the United Nations and other relevant international legal documents only after all necessary preconditions have been fulfilled. First, the principle of the right of peoples to self-determination has been established in order to facilitate the achievement of world peace. If the implementation of this principle is to lead to conflict or internal strife which threaten peace, it is not to be considered acceptable in the particular case. Secondly, in all major international documents, the right of peoples to self-determination is directly connected to the principle of equality of all peoples. Thirdly, the right of peoples to self-determination cannot be in contravention of the principle of territorial integrity of States and, as such, cannot be exercised to its detriment, as has been recognized in many international documents.

Although the principle of the right of peoples to self-determination represents the basis for the guarantee and respect of human rights, national minorities, as collective entities, are not to be considered as subjects entitled to the right to self-determination. The right to self-determination is broader in its scope than the rights granted to national minorities in accordance with international standards. According to those standards, national minorities are not even entitled to the right to cultural autonomy, let alone to any kind of political autonomy.

The right of peoples to self-determination through autonomy envisaged for the members of the "community" is therefore unacceptable since international standards already regulate the rights of persons belonging to minorities. The tendency to expand the subject and substance of the principle of the right of peoples to self-determination or to link it with other subject-matters is counterproductive and can lead to the disintegration of States.

I should be grateful if you would have the present letter circulated as a document of the General Assembly under agenda item 108 (b).

(Signed) Dragomir DJOKIC
Ambassador
Charge d'affaires a.i.

Notes

1/ Resolution 1514 (XV).

2/ Resolution 2200 A (XXI), annex.

3/ Resolution 2625 (XXV), annex.